

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHANE JOSEPH CARLINE,

Plaintiff,

Case No. 1:24-cv-879

v.

Honorable Sally J. Berens

BELLAMY CREEK CORRECTIONAL
FACILITY et al.,

Defendants.

OPINION

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Plaintiff is granted leave to proceed *in forma pauperis* in this action. Pursuant to 28 U.S.C. § 636(c) and Rule 73 of the Federal Rules of Civil Procedure, Plaintiff consented to proceed in all matters in this action under the jurisdiction of a United States Magistrate Judge. (ECF No. 1, PageID.5.)

This case is presently before the Court for preliminary review under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996) (PLRA), pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). The Court is required to conduct this initial review prior to the service of the complaint. *See In re Prison Litig. Reform Act*, 105 F.3d 1131, 1131, 1134 (6th Cir. 1997); *McGore v. Wrigglesworth*, 114 F.3d 601, 604–05 (6th Cir. 1997).

Service of the complaint on the named defendants is of particular significance in defining a putative defendant's relationship to the proceedings. “An individual or entity named as a defendant is not obliged to engage in litigation unless notified of the action, and brought under a court’s authority, by formal process.” *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999). “Service of process, under longstanding tradition in our system of justice, is

fundamental to any procedural imposition on a named defendant.” *Id.* at 350. “[O]ne becomes a party officially, and is required to take action in that capacity, only upon service of a summons or other authority-asserting measure stating the time within which the party served must appear and defend.” *Id.* (citations omitted). That is, “[u]nless a named defendant agrees to waive service, the summons continues to function as the *sine qua non* directing an individual or entity to participate in a civil action or forgo procedural or substantive rights.” *Id.* at 351. Therefore, the PLRA, by requiring courts to review and even resolve a plaintiff’s claims before service, creates a circumstance where there may only be one party to the proceeding—the plaintiff—at the district court level and on appeal. *See, e.g., Conway v. Fayette Cnty. Gov’t*, 212 F. App’x 418 (6th Cir. 2007) (“Pursuant to 28 U.S.C. § 1915A, the district court screened the complaint and dismissed it without prejudice before service was made upon any of the defendants . . . [such that] . . . only [the plaintiff] [wa]s a party to this appeal.”).

Here, Plaintiff has consented to a United States Magistrate Judge conducting all proceedings in this case under 28 U.S.C. § 636(c). That statute provides that “[u]pon the consent of the parties, a full-time United States magistrate judge . . . may conduct any or all proceedings . . . and order the entry of judgment in the case . . .” 28 U.S.C. § 636(c). Because the named Defendants have not yet been served, the undersigned concludes that they are not presently parties whose consent is required to permit the undersigned to conduct a preliminary review under the PLRA, in the same way they are not parties who will be served with or given notice of this opinion. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (“The record does not contain a

consent from the defendants[; h]owever, because they had not been served, they were not parties to this action at the time the magistrate entered judgment.”).¹

Under the PLRA, the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c). The Court must read Plaintiff’s *pro se* complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff’s allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, the Court will dismiss Plaintiff’s complaint for failure to state a claim against Defendants IBC, Jones, Brooke, Sissel, and Unknown Parties ##1–4. Plaintiff’s Eighth Amendment claims against Defendants Groce, Nevins, and Jensen, and his retaliation claim against Defendant Jensen remain in the case.

Discussion

I. Factual Allegations

Plaintiff is presently incarcerated with the Michigan Department of Corrections (MDOC) at the Chippewa Correctional Facility (URF) in Kincheloe, Chippewa County, Michigan. The events about which he complains, however, occurred at the Bellamy Creek Correctional Facility (IBC) in Ionia, Ionia County, Michigan. Plaintiff names IBC as a Defendant in this case. Plaintiff

¹ *But see Coleman v. Lab. & Indus. Rev. Comm’n of Wis.*, 860 F.3d 461, 471 (7th Cir. 2017) (concluding that, when determining which parties are required to consent to proceed before a United States Magistrate Judge under 28 U.S.C. § 636(c), “context matters” and the context the United States Supreme Court considered in *Murphy Bros.* was nothing like the context of a screening dismissal pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c)); *Williams v. King*, 875 F.3d 500, 503–04 (9th Cir. 2017) (relying on Black’s Law Dictionary for the definition of “parties” and not addressing *Murphy Bros.*); *Burton v. Schamp*, 25 F.4th 198, 207 n.26 (3d Cir. 2022) (premising its discussion of “the term ‘parties’ solely in relation to its meaning in Section 636(c)(1), and . . . not tak[ing] an opinion on the meaning of ‘parties’ in other contexts”).

also sues Defendants Corrections Officers Unknown Groce, Unknown Nevins, and Unknown Jensen, Assistant Deputy Warden Sabrina Jones, and Lieutenant Unknown Sissel in their official and personal capacities. In addition, Plaintiff's sues Defendants Grievance Coordinator N. Brooke and Unknown Parties John Does ##1-4 without specifying the capacity in which they are being sued. (Comp., ECF No. 1, PageID.1-2.)

In his complaint, Plaintiff alleges that on April 14, 2024, between 9:00 p.m. and 9:40 p.m., Defendant Groce instructed Plaintiff to place his hands behind his back and cuff up. (*Id.*, PageID.3.) Plaintiff was taken to the showers, instead of to the holding cages which are monitored. While Plaintiff was being led into the showers, Defendant Groce grabbed him by the left shoulder and neck and slammed his face into the wall, breaking his glasses, cutting his right eye, and bruising his face. (*Id.*) Defendant Groce then locked the shower door. (*Id.*)

A few minutes later, Defendants Groce and Nevins arrived and began questioning Plaintiff about a "wick." (*Id.*) When Plaintiff did not provide the answers they were seeking, Defendant Groce opened the shower door and grabbed Plaintiff by his left elbow and led him out of the shower stall. Defendant Nevins stood in front of Plaintiff and both officers started punching him in the stomach, chest, and rib area. Plaintiff begged and yelled for them to stop but they would not, and eventually Plaintiff fell to the floor. (*Id.*) Defendant Nevins then started kicking Plaintiff in the ribs so hard that Plaintiff's body was pushed back into the shower stall and multiple black boot prints were left on his tee-shirt. (*Id.*) Defendant Nevins then turned on the shower and picked Plaintiff up by the neck, choking him and pushing his face under the running water. Plaintiff was in extreme fear and could not breathe. (*Id.*) This lasted about 30 seconds, and Plaintiff was on the verge of losing consciousness when Defendant Nevins finally let go of Plaintiff. Plaintiff was lying on the floor, and Defendant Groce closed and locked the shower stall. Plaintiff was able to retrieve

his broken glasses from the floor. (*Id.*) A few minutes later, Defendants Groce and Nevins returned and told Plaintiff to stand up and walk like a “God damn man.” (*Id.*) Defendants Groce and Nevins then took Plaintiff to his room, where his hand was bumped, and he dropped his glasses. (*Id.*) Defendant Nevins took Plaintiff’s glasses and refused to return them. (*Id.*, PageID.4.)

Plaintiff waited for third shift officers to arrive and reported the incident to non-party Corrections Officer Maddox, who called non-party Lieutenant Smith. Lieutenant Smith told Plaintiff that there was not an incident report and asked to see proof, so Plaintiff showed him the cuts, welts, and huge bruises all over his body. (*Id.*) Lieutenant Smith noted blood in Plaintiff’s mouth and that Plaintiff was having difficulty breathing, so he asked medical to evaluate Plaintiff. (*Id.*) Non-party R.N. Eikenhout documented Plaintiff’s injuries and photographed them, as well as the boot prints on Plaintiff’s shirt. R.N. Eikenhout called her supervisor, and Plaintiff was taken to Ionia Sparrow Hospital for his injuries. (*Id.*)

Later that day, Defendant Jensen pulled Plaintiff out of his cell and led him to the shower with his hands handcuffed behind his back. Once in the shower, Defendant Jensen delivered two closed fist blows to Plaintiff’s chest and stomach, causing Plaintiff pain and difficulty breathing. (*Id.*) Defendant Jensen stated, “I thought you were warned to keep your mouth shut.” (*Id.*) Defendant Jensen then searched Plaintiff’s cell before returning Plaintiff to his cell. (*Id.*)

Plaintiff wrote to the Warden, Inspector, Internal Affairs in Lansing, the Legislative Ombudsman, and the Grievance Coordinator at IBC, but all refused to respond to Plaintiff about his grievance, Grievance No. IBC-24-04-0839-26A. (*Id.*) Plaintiff’s grievance was referred to Internal Affairs, and Plaintiff was moved to another facility. Plaintiff claims that the transfer was retaliatory. Plaintiff continues to have headaches and cannot see without his glasses. (*Id.*)

Plaintiff seeks damages and injunctive relief.

II. Failure to State a Claim

A complaint may be dismissed for failure to state a claim if it fails “to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). While a complaint need not contain detailed factual allegations, a plaintiff’s allegations must include more than labels and conclusions. *Id.*; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 679. Although the plausibility standard is not equivalent to a “‘probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—that the pleader is entitled to relief.” *Id.* at 679 (quoting Fed. R. Civ. P. 8(a)(2)); *see also Hill v. Lappin*, 630 F.3d 468, 470–71 (6th Cir. 2010) (holding that the *Twombly/Iqbal* plausibility standard applies to dismissals of prisoner cases on initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(ii)).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of a right secured by the federal Constitution or laws and must show that the deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Street v. Corr. Corp. of Am.*, 102 F.3d 810, 814 (6th Cir. 1996). Because Section 1983 is a method for vindicating federal rights, not a source of substantive rights itself, the first step in an action under Section 1983

is to identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

A. Defendant IBC

Plaintiff's names IBC as a Defendant. An express requirement of 42 U.S.C. § 1983 is that the defendant be a "person." *See Monell v. Dep't of Social Servs.*, 436 U.S. 658 (1978). IBC is an administrative unit of the Michigan Department of Corrections. Neither a prison nor a state corrections department is a "person" within the meaning of Section 1983. *Will v. Michigan Dep't of State Police*, 491 U.S. 58 (1989). Furthermore, Plaintiff's claim against this Defendant is barred by the Eleventh Amendment. *Alabama v. Pugh*, 438 U.S. 781, 782 (1978). That amendment prohibits suits in federal court against the state or any of its agencies or departments. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984), superseded by statute on other grounds, 28 U.S.C. § 1367. A state's Eleventh Amendment immunity is in the nature of a jurisdictional defense and may be raised on the court's own motion. *Estate of Ritter v. Univ. of Mich.*, 851 F.2d 846, 852 (6th Cir. 1988). The Supreme Court has squarely held that the Eleventh Amendment bars federal suits against state departments of corrections. *Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (per curiam). IBC is therefore not subject to a Section 1983 action.

B. Defendant Brooke

Plaintiff does not specifically name Defendant Brooke in the body of his complaint, but he does state that he wrote to the Grievance Coordinator, as well as other officials regarding his mistreatment at the hands of Defendants Groce, Nevins, and Jensen. Plaintiff identifies Defendant Brooke as the Grievance Coordinator in his complaint. Plaintiff asserts that he did not receive a response to his letter. Plaintiff states that his grievance was turned over to Internal Affairs and he

was subjected to a retaliatory transfer, although he fails to allege any facts regarding who was responsible for the transfer.

The Court notes that government officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior or vicarious liability. *Iqbal*, 556 U.S. at 676; *Monell*, 436 U.S. at 691; *Everson v. Leis*, 556 F.3d 484, 495 (6th Cir. 2009). A claimed constitutional violation must be based upon active unconstitutional behavior. *Grinter v. Knight*, 532 F.3d 567, 575–76 (6th Cir. 2008); *Greene v. Barber*, 310 F.3d 889, 899 (6th Cir. 2002). The acts of one's subordinates are not enough, nor can supervisory liability be based upon the mere failure to act. *Grinter*, 532 F.3d at 576; *Greene*, 310 F.3d at 899; *Summers v. Leis*, 368 F.3d 881, 888 (6th Cir. 2004). Moreover, Section 1983 liability may not be imposed simply because a supervisor denied an administrative grievance or failed to act based upon information contained in a grievance. See *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999). “[A] plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676. Plaintiff has failed to allege that Defendant Brooke engaged in any active unconstitutional behavior. Accordingly, he fails to state a claim against Defendant Brooke.

C. Defendants Jones, Sissel, and Unknown Parties ##1–4

Plaintiff fails to name Defendant Jones, Defendant Sissel, or Defendants Unknown Parties ##1–4 in the body of his complaint or to make any factual allegations against them. It is a basic pleading essential that a plaintiff attribute factual allegations to particular defendants. See *Twombly*, 550 U.S. at 545 (holding that, in order to state a claim, a plaintiff must make sufficient allegations to give a defendant fair notice of the claim). The Sixth Circuit “has consistently held that damage claims against government officials arising from alleged violations of constitutional

rights must allege, with particularity, facts that demonstrate what each defendant did to violate the asserted constitutional right.” *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008) (citing *Terrance v. Northville Reg'l Psych. Hosp.*, 286 F.3d 834, 842 (6th Cir. 2002)). Where a person is named as a defendant without an allegation of specific conduct, the complaint is subject to dismissal, even under the liberal construction afforded to *pro se* complaints. *See Gilmore v. Corr. Corp. of Am.*, 92 F. App’x 188, 190 (6th Cir. 2004) (dismissing complaint where plaintiff failed to allege how any named defendant was involved in the violation of his rights); *Frazier v. Michigan*, 41 F. App’x 762, 764 (6th Cir. 2002) (dismissing plaintiff’s claims where the complaint did not allege with any degree of specificity which of the named defendants were personally involved in or responsible for each alleged violation of rights); *Griffin v. Montgomery*, No. 00-3402, 2000 WL 1800569, at *2 (6th Cir. Nov. 30, 2000) (requiring allegations of personal involvement against each defendant); *Rodriguez v. Jabe*, No. 90-1010, 1990 WL 82722, at *1 (6th Cir. June 19, 1990) (“Plaintiff’s claims against those individuals are without a basis in law as the complaint is totally devoid of allegations as to them which would suggest their involvement in the events leading to his injuries”). Plaintiff fails to even mention Defendant Jones, Defendant Sissel, or Defendants Unknown Parties ##1–4 in the body of his complaint. His allegations fall far short of the minimal pleading standards under Fed. R. Civ. P. 8 (requiring “a short and plain statement of the claim showing that the pleader is entitled to relief”). Therefore, the Court will dismiss Plaintiff’s claims against Defendants Jones, Sissel, and Unknown Parties ##1–4.

D. Eighth Amendment claims against Defendants Groce, Nevins, and Jensen

The Eighth Amendment embodies a constitutional limitation on the power of the states to punish those convicted of a crime. Punishment may not be “barbarous,” nor may it contravene society’s “evolving standards of decency.” *See Rhodes v. Chapman*, 452 U.S. 337, 345–46

(1981) (quoting *Trop v. Dulles*, 356 U.S. 86, 101 (1958)). The Eighth Amendment also prohibits conditions of confinement which, although not physically barbarous, ““involve the unnecessary and wanton infliction of pain.”” *Rhodes*, 452 U.S. at 346 (quoting *Gregg v. Georgia*, 428 U.S. 153, 183 (1976)). Among unnecessary and wanton inflictions of pain are those that are ““totally without penological justification.”” *Id.*

But not every shove or restraint gives rise to a constitutional violation. *Parrish v. Johnson*, 800 F.2d 600, 604 (6th Cir. 1986); *see also Hudson v. McMillian*, 503 U.S. 1, 9 (1992) (holding that “[n]ot every push or shove . . . violates a prisoner’s constitutional rights”) (internal quotations omitted). On occasion, “[t]he maintenance of prison security and discipline may require that inmates be subjected to physical contact actionable as assault under common law.” *Combs v. Wilkinson*, 315 F.3d 548, 556 (6th Cir. 2002) (citing *Pelfrey v. Chambers*, 43 F.3d 1034, 1037 (6th Cir. 1995)), *quoted in Cordell v. McKinney*, 759 F.3d 573, 580–81 (6th Cir. 2014). Prison officials nonetheless violate the Eighth Amendment when their “offending conduct reflects an unnecessary and wanton infliction of pain.” *Williams v. Curtin*, 631 F.3d 380, 383 (6th Cir. 2011) (internal quotation marks omitted); *Bailey v. Golladay*, 421 F. App’x. 579, 582 (6th Cir. 2011).

There is an objective component and a subjective component to an Eighth Amendment claim. *Santiago v. Ringle*, 734 F.3d 585, 590 (6th Cir. 2013) (citing *Comstock v. McCrary*, 273 F.3d 693, 702 (6th Cir. 2001)). First, “[t]he subjective component focuses on the state of mind of the prison officials.” *Williams*, 631 F.3d at 383. We ask “whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.” *Hudson*, 503 U.S. at 7. Second, “[t]he objective component requires the pain inflicted to be ‘sufficiently serious.’” *Williams*, 631 F.3d at 383 (quoting *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)). “The Eighth Amendment’s prohibition of ‘cruel and unusual’ punishments necessarily excludes from

constitutional recognition *de minimis* uses of physical force, provided that the use of force is not of a sort repugnant to the conscience of mankind.” *Hudson*, 503 U.S. at 9 (internal quotations omitted). The objective component requires a “contextual” investigation, one that is “responsive to ‘contemporary standards of decency.’” *Id.* at 8 (quoting *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). While the extent of a prisoner’s injury may help determine the amount of force used by the prison official, it is not dispositive of whether an Eighth Amendment violation has occurred. *Wilkins v. Gaddy*, 559 U.S. 34, 37 (2010). “When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency always are violated . . . [w]hether or not significant injury is evident.” *Hudson*, 503 U.S. at 9. “Otherwise, the Eighth Amendment would permit any physical punishment, no matter how diabolic or inhuman, inflicting less than some arbitrary quantity of injury.” *Id.*

In this case, Plaintiff alleges that Defendants Groce, Nevins, and Jensen beat and kicked him while his hands were cuffed behind his back, and he was offering no resistance. Plaintiff states that he suffered bruising, welts, and other injuries as a result, and that his glasses were broken. The Court concludes that, at this point in the litigation, Plaintiff has alleged sufficient facts to support Eighth Amendment claims against Defendants Groce, Nevins, and Jensen.

E. Retaliation claim against Defendant Jensen

Plaintiff appears to be asserting a retaliation claim against Defendant Jensen. Retaliation based upon a prisoner’s exercise of his or her constitutional rights violates the Constitution. *See Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). To set forth a First Amendment retaliation claim, a plaintiff must establish three elements: (1) he was engaged in protected conduct; (2) an adverse action was taken against him that would deter a person of ordinary firmness from engaging in that conduct; and (3) the adverse action was motivated, at least in part, by the

protected conduct. *Id.* Moreover, a plaintiff must be able to prove that the exercise of the protected right was a substantial or motivating factor in the defendant's alleged retaliatory conduct. *See Smith v. Campbell*, 250 F.3d 1032, 1037 (6th Cir. 2001) (citing *Mount Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977)).

An inmate has a right to file "non-frivolous" grievances against prison officials on his own behalf, whether written or oral. *Maben v. Thelen*, 887 F.3d 252, 265 (6th Cir. 2018); *Mack v. Warden Loretto FCI*, 839 F.3d 286, 298–99 (3d Cir. 2016) ("[The prisoner's] oral grievance to [the prison officer] regarding the anti-Muslim harassment he endured at work constitutes protected activity under the First Amendment."); *Pearson v. Welborn*, 471 F.3d 732, 741 (7th Cir. 2006) ("[W]e decline to hold that legitimate complaints lose their protected status simply because they are spoken."); *see also Pasley v. Conerly*, 345 F. App'x 981, 984–85 (6th Cir. 2009) (finding that a prisoner engaged in protected conduct by *threatening* to file a grievance). "Nothing in the First Amendment itself suggests that the right to petition for redress of grievances only attaches when the petitioning takes a specific form." *Holzemer v. City of Memphis*, 621 F.3d 512, 521 (6th Cir. 2010) (finding that a conversation constituted protected petitioning activity) (quoting *Pearson*, 471 F.3d at 741).

Plaintiff claims that, after he reported the beating by Defendants Groce and Nevins, Defendants Jensen punched him in the chest and stomach and said, "I thought you were warned to keep your mouth shut." (ECF No. 1, PageID.4.) The Court concludes that at this point in the litigation, Plaintiff has alleged sufficient facts to state a retaliation claim against Defendant Jensen.

Conclusion

Having conducted the review required by the Prison Litigation Reform Act, the Court determines that Defendants IBC, Jones, Brooke, Sissel, and Unknown Parties ##1–4 will be dismissed for failure to state a claim, under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C.

§ 1997e(c). Plaintiff's Eighth Amendment claims against Defendants Groce, Nevins, and Jensen, and his retaliation claim against Defendant Jensen remain in the case.

An order consistent with this opinion will be entered.

Dated: October 18, 2024

/s/ Sally J. Berens
SALLY J. BERENS
United States Magistrate Judge